



Practitioner's Docket No. 2186.00055

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Michael Nutt, et al.

Application No.: 10/828,382 Group No.: 3738

Filed: 4-20-04 Examiner: Unknown

For: SURFACE TREATMENT FOR IMPLANTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**AMENDMENT, REQUEST AND FEE TO DELETE AND/OR  
ADD TO ORIGINAL ERRONEOUSLY NAMED OR NOT NAMED  
INVENTOR(S) IN—NONPROVISIONAL APPLICATION—DECLARATION  
(37 C.F.R. § 1.48(a))**

NOTE: "If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention of the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors." 37 C.F.R. § 1.48(a)

NOTE: 37 C.F.R. § 1.48(f)(1): "Nonprovisional application-filing executed oath/declaration corrects inventorship. If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. See §§ 1.41(a)(4) and 1.497(d) for submission of an executed oath or declaration to enter the national stage under 35 U.S.C. 371 and § 1.494 or § 1.495 naming an inventive entity different from the inventive entity set forth in the international stage."

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 \*

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☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Date: 6-28-05

Signature

Connie Herty

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Amendment, Request and Fee to Delete and/or Add to Original Erroneously Named or Not Named Inventor(s)  
in—Nonprovisional Application—Declaration (37 C.F.R. § 1.48(a)) [9-22]—page 1 of 3)

07/01/2005 WADELRI 0000050 10828382

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01 FD:1464

1. This amendment and request is to correct the incorrect original naming of inventor(s) in the declaration under 37 C.F.R. § 1.48(a) as set forth and filed on 4-20-04 (date).
2. Addition and/or Deletion of Inventor(s)

(check and complete all applicable items)

- ☐ Add the following previously unnamed person(s) as inventor(s) of this application:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☒ Delete the following previously incorrectly named inventor(s)  
Joseph Clift

\_\_\_\_\_  
\_\_\_\_\_

3. Attachments

Attached is

- (a) A statement from: (check items below that apply)

- ☐ each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part. 37 C.F.R. § 1.48(a)(1).  
☒ each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. 37 C.F.R. § 1.48(a)(1).

- (b) a declaration by each of the actual inventor(s) as required by 37 C.F.R. § 1.63 (or as permitted by §§ 1.42, 1.43, OR 1.47). 37 C.F.R. § 1.48(a)(2).

- (c) written assent of the assignee (if any of the original inventors executed an assignment) 37 C.F.R. 1.48(a)(4)

- (d) (check the following item, if all the inventor(s) remaining after this petition and amendment is accepted are not the inventor(s) of the subject matter of all the claim(s) now being claimed.)

- ☒ Attached is an explanation of the facts, including the ownership of all the claim(s) being claimed in this application, including the ownership of all the claim(s) at the time the last claimed invention was made (Declaration of Inventorship and Common Ownership of Claims in Application).

4. Fee Payment (37 C.F.R. § 1.17(i)—\$130.00)

The fee required is paid as follows:

- ☒ Attached is a ☒ check ☐ money order in the amount of \$ 130.00  
☐ Authorization is hereby made to charge the amount of \$ \_\_\_\_\_  
☒ to Deposit Account No. 11-1449  
☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should **not** be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

(Amendment, Request and Fee to Delete and/or Add to Original Erroneously Named or Not Named Inventor(s) in—Nonprovisional Application—Declaration (37 C.F.R. § 1.48(a)) [9-22]—page 2 of 3)

Reg. No.: 45,791

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SIGNATURE OF PRACTITIONER

Amy E. Rinaldo

(type or print name of practitioner)

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(Amendment, Request and Fee to Delete and/or Add to Original Erroneously Named or Not Named Inventor(s)  
in—Nonprovisional Application—Declaration (37 C.F.R. § 1.48(a)) [9-22]—page 3 of 3)

Attorney Docket No.: 2186.00055

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re application of: Michael Nutt, et al.

Serial No.: 10/828,382

Filed: 4-20-04

For: SURFACE TREATMENT FOR IMPLANTS

**STATEMENT OF FACTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. Michael Nutt, Marc Richelsoph and Joseph Clift are the originally named inventors of the above-captioned patent application.

2. Without deceptive intent, on or about April 20, 2005, it was discovered that Joseph Clift was erroneously included as an inventor of the above-captioned application.


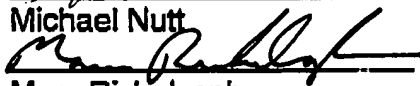
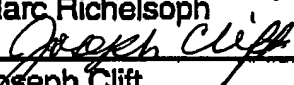
3. Upon discovering the inadvertent error of including this inventor in the claimed invention, the inventors of the application were immediately contacted and the decision was reached to amend the application by deleting the erroneously named inventor. Accordingly, there was no deceptive intent in initially listing Joseph Clift as an inventor, and Applicant has worked diligently to amend the application.

4. The undersigned state further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful and false statements and the like so made, are punishable

Attorney Docket No.: 2186,00055

by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 6/15/05Date: 6/15/05Date: 6/19/05

  
\_\_\_\_\_  
Michael Nutt  
  
\_\_\_\_\_  
Marc Richelsoph  
  
\_\_\_\_\_  
Joseph Clift